

Department of State

§ 9.8

(3) Information marked for an indefinite duration of classification under predecessor orders, such as “Originating Agency’s Determination Required” (OADR) or containing no declassification instructions shall be subject to the declassification provisions of Part 3 of the Order, including the provisions of section 3.3 regarding automatic declassification of records older than 25 years.

§ 9.5 Original classification authority.

(a) Authority for original classification of information as *Top Secret* may be exercised by the Secretary and those officials delegated this authority in writing by the Secretary. Such authority has been delegated to the Deputy Secretary, the Under Secretaries, Assistant Secretaries and other Executive Level IV officials and their deputies; Chiefs of Mission, Charge d’Affaires, and Principal Officers at autonomous posts abroad; and to other officers within the Department as set forth in Department Notice dated May 26, 2000.

(b) Authority for original classification of information as *Secret* or *Confidential* may be exercised only by the Secretary, the Senior Agency Official, and those officials delegated this authority in writing by the Secretary or the Senior Agency Official. Such authority has been delegated to Office Directors and Division Chiefs in the Department, Section Heads in Embassies and Consulates abroad, and other officers within the Department as set forth in Department Notice dated May 26, 2000. In the absence of the Secret or Confidential classification authority, the person designated to act for that official may exercise that authority.

§ 9.6 Derivative classification.

(a) *Definition.* Derivative classification is the incorporating, paraphrasing, restating or generating in new form information that is already classified and the marking of the new material consistent with the classification of the source material. Duplication or reproduction of existing classified information is not derivative classification.

(b) *Responsibility.* Information classified derivatively from other classified information shall be classified and marked in accordance with instruc-

tions from an authorized classifier or in accordance with an authorized classification guide and shall comply with the standards set forth in sections 2.1–2.2 of the Executive Order and the ISOO implementing directives in 32 CFR 2001.22.

(c) *Department of State Classification Guide.* The Department of State Classification Guide (DSCG) is the primary authority for the classification of information in documents created by Department of State personnel. The Guide is classified “Confidential” and is found on the Department of State’s classified Web site.

§ 9.7 Identification and marking.

(a) Classified information shall be marked pursuant to the standards set forth in section 1.6 of the Executive Order; ISOO implementing directives in 32 CFR 2001, Subpart B; and internal Department guidance in 12 Foreign Affairs Manual (FAM).

(b) Foreign government information shall retain its original classification markings or be marked and classified at a U.S. classification level that provides a degree of protection at least equivalent to that required by the entity that furnished the information. Foreign government information retaining its original classification markings need not be assigned a U.S. classification marking provided the responsible agency determines that the foreign government markings are adequate to meet the purposes served by U.S. classification markings.

(c) Information assigned a level of classification under predecessor executive orders shall be considered as classified at that level of classification.

§ 9.8 Classification challenges.

(a) *Challenges.* Holders of information pertaining to the Department of State who believe that its classification status is improper are expected and encouraged to challenge the classification status of the information. Holders of information making challenges to the classification status of information shall not be subject to retribution for such action. Informal, usually oral, challenges are encouraged. Formal challenges to classification actions